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Office of the Secretary

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of the Application of:

— SOUTHWEST EDUCATIONAL MEDIA)
FOUNDATION, INC.)
Lake Charles, Louisiana)
For a Permit to Construct a New)
Non-Commercial Educational FM)
Station on Channel 219)

File No. BPED-831216BU

REC'D MASS MED BUR

To: The Chief, Mass Media Bureau

SEP 30 1986

PUBLIC REF. ROOM

SUPPLEMENT TO INFORMAL
OBJECTION OF FREEDOM TV-SUB, INC.

Freedom TV-Sub, Inc. ("Freedom"), licensee of
Television Station KFDM-TV, Channel 6, Beaumont, Texas, sub-
mits herewith a Supplement to its Informal Objection to the
above-referenced application of Southwest Educational Media
Foundation, Inc. ("SEMF") for a permit to construct a new
non-commercial educational FM ("NCE-FM") station on Channel
219 at Lake Charles, Louisiana. This Supplement is filed in
reply to the response of SEMF to Freedom's Informal
Objection filed on September 16, 1986 ("Response"), and con-
sists of a brief Engineering Statement ("Statement").

Calculation of Population Affected by SEMF

Proposal. The Statement again demonstrates that SEMF has
failed to make the essential showing that the Predicted

Interference Area ("PIA") resulting from SEMF's proposed facility contains "no more than 3,000 persons" as required by the Commission's Rules and Regulations. See 47 C.F.R. § 73.525(c). Specifically, SEMF's claim that the population affected is less than 3,000 persons is premised upon improper calculations. When the population affected by SEMF's proposal is correctly calculated, using the method prescribed by the Commission's Rules, it is 3,568 persons, which exceeds the limits permitted by Section 73.525(c).

Use of Filters. In its Response, SEMF requests that, if Freedom's claim that more than 3,000 persons reside in the PIA is substantiated, the Commission grant the above-referenced application upon SEMF's representation that it will install filters equal to the number of persons above 3,000 in the PIA, as permitted in Section 73.525(c)(2). 47 C.F.R. § 73.525(c)(2). Until such an offer is substantiated by a specific demonstration of ability and intent to implement it, SEMF's proposal is an empty promise. Unless SEMF makes a firm commitment to install such filters, the Commission should not grant SEMF's application; any grant should be subject to express conditions with respect to installation of filters.

If SEMF intends to use filters, it should amend its application to indicate with specificity how it will use them. For example, SEMF should concede that the filters to

be installed should equal the number of persons above 3,000 in the PIA as calculated by Freedom. Moreover, SEMF should promise to broadcast regular announcements pertaining to the availability of filters at no charge to those adversely affected by the interference from the SEMF facility. Additionally, SEMF should commit itself to a timetable for investigating complaints of interference and installing the requisite filters. Finally, SEMF should supply a certificate of financial ability to implement the filter plan. The above requirements should be embodied in specific conditions attached to any grant of SEMF's application.

Good Faith Negotiations. SEMF's Response includes certain representations concerning Freedom's acceptance of its proposed settlement for the problems raised by SEMF's application. In fact, as set out in the attached Statement, SEMF submitted its proposed "Settlement" to the Commission without giving Freedom an opportunity to assess its impact: Freedom never reviewed or approved SEMF's new proposal. Freedom has been, and continues to be, open to settlement of the problem raised by SEMF's application through good faith, bilateral negotiations. But Freedom does not believe that SEMF's unilateral proposed "Settlement" -- which benefits SEMF without addressing Freedom's concerns -- constitutes good faith negotiation.

In light of these considerations, and the fact that SEMF has neither fully addressed nor resolved the questions raised by Freedom with respect to SEMF's application, Freedom again urges the Commission to dismiss SEMF's application.

Respectfully submitted,

FREEDOM TV-SUB, INC.

By: Werner K. Hartenberger
Werner K. Hartenberger *by jol*

By: John S. Logan
John S. Logan

By: Daniel F. Danth



STATEMENT OF HERMAN E. HURST, JR.
IN SUPPORT OF AN
INFORMAL OBJECTION TO AN
APPLICATION FOR CONSTRUCTION PERMIT
BPED-831216BU - LAKE CHARLES, LOUISIANA

Prepared For: Freedom TV Sub., Inc.

I am a Radio Engineer, Vice President in the firm of Carl T. Jones Corporation, with offices located in Springfield, Virginia.

My education and experience are a matter of record with the Federal Communications Commission.

This office has been authorized by Freedom TV, Sub., Inc. (Freedom), licensee of Television Station KFDM-TV, Beaumont, Texas, to prepare this statement in support of an informal objection to an Application for Construction Permit (BPED-831216BU), submitted by Southwest Educational Media Foundation, Inc. (Southwest).

Southwest has applied for a new Non-commercial Educational FM (NCE-FM) facility in Lake Charles, Louisiana. As amended on October 2, 1985, the application requests authority to construct a facility on Channel 219 with an ERP of 3 kW at 100 meters AAT. KFDM-TV operates on Channel 6 serving Beaumont, Texas, with an antenna site located approximately 159 km from Southwest's proposed site.

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KFDM-TV - BEAUMONT, TEXAS
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Initially, Southwest proposed to construct a facility with an ERP of 39.8 kW and an HAAT of 115 meters. Southwest contacted this office seeking concurrence in this proposal. It was the judgement of the undersigned that interference to KFDM-TV would exceed that permitted under the Rules and Regulations. It was suggested to Southwest that a smaller facility located outside the urbanized area would probably be acceptable. The amended proposal requesting authority to construct a facility with an ERP of 3 km and an HAAT of 100 meters was not provided to this office or KFDM-TV prior to submission to the Commission. Approval of this proposal by representatives of KFDM-TV or this office, verbally or otherwise, has never been given to Southwest.

In its amended application, Southwest has provided a showing as required by 73.525(c) of the Rules and Regulations which concludes that fewer than 3,000 people are located within the KFDM-TV service area that is predicted to receive interference from the proposed NCE-FM facility. Upon review by this office, the methods used in Southwest's showing to determine affected populations have been found to be in error. An informal objection detailing the nature of the error has already been submitted by Freedom. The objection concludes that Southwest has underestimated the affected population. Properly calculated, the affected population is 3,568 persons which renders the application non-compliant with Section 73.525 of the Commission's Rules. In light of Southwest's recent response to Freedom's objection which exhibits a basic misunderstanding of this section of the Rules, a further explanation is warranted.

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Section 73.525(e)(2) of the FCC Rules and Regulations states in pertinent part,

The number of persons contained within the predicted interference area will be based on data contained in the most recently published U.S. Census of Population and will be determined by plotting the predicted interference area on a County Subdivision Map of the state published for the Census, and totaling the number of persons in each county Subdivision

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According to the 1980 Census the proportionate figure equal to 61.11%

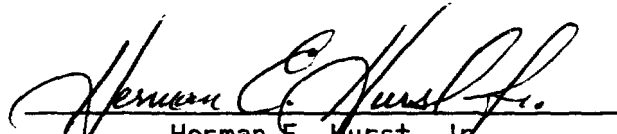
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percentage of the population within each contour. If, for example, all of Iowa City were encompassed by the 81.5 dBu contour and the population elsewhere within the contour were zero, the Southwest method would indicate that only 61.11% of the Iowa City residents were affected. The net result would be that the Southwest method would understate the affected

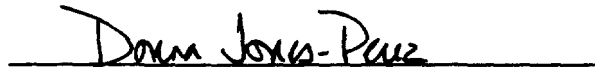
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COMMONWEALTH OF VIRGINIA)
COUNTY OF FAIRFAX)

I, Herman E. Hurst, Jr. being first duly sworn, upon oath depose and say that the facts contained in the foregoing statement by me subscribed are true of my own personal knowledge except for those facts pertaining to matters of which official notice may be taken or appearing in recognized reliable sources for such facts, and these facts I verily believe to be true.


Herman E. Hurst, Jr.

Subscribed and sworn to before me this 25th day of September, 1986


Notary Public

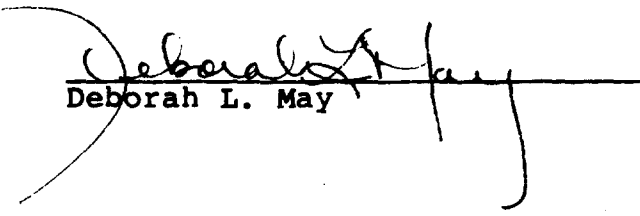
My Commission Expires 12/30/89

CERTIFICATE OF SERVICE

I, Deborah L. May, do hereby certify that I have this 26th day of September, 1986 served a copy of the foregoing by United States mail, first class, postage pre-paid, on the following:

Mr. T. Kent Atkins
President
Southwest Educational
Media Foundation, Inc.
7146 Bayberry
Dallas, Texas 75249

Mr. James C. McKinney
Chief
Mass Media Bureau
1919 M Street, N.W.
Room 314
Washington, D.C. 20037
VIA HAND DELIVERY


Deborah L. May